



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/942,761

08/31/2001

Kevin McCarthy

004770.00783

4282

22907 7590 07/31/2008

BANNER & WITCOFF, LTD.

1100 13th STREET, N.W.

SUITE 1200

WASHINGTON, DC 20005-4051

EXAMINER

RICHER, AARON M

ART UNIT

PAPER NUMBER

2628

MAIL DATE

DELIVERY MODE

07/31/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/942,761	Applicant(s) MCCARTHY ET AL.	
	Examiner AARON M. RICHER	Art Unit 2628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-11,33,34,36-39 and 46-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-11,33,34,36-39 and 46-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 2, 4-11, 33, 34, 36-39, and 46-53 have been considered but are moot in view of the new ground(s) of rejection.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no explanation of what comprises "computer readable media" as is claimed in claims 58 and 59.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Art Unit: 2628

5. Claims 1, 2, 6-8, 11, 46, 47, 54, 55, 58, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armanto (U.S. Patent 6,094,587) in view of Finke-Anlauff (U.S. Patent 5,479,476).

6. As to claim 1, Armanto discloses a method comprising:

receiving at a communication terminal from a remote terminal via a communication channel a message including a group of terminal operating characteristics (col. 4, lines 32-45; col. 11, lines 15-45; a ringtone, or plurality thereof, which reads on an operating characteristic, is received from a remote user); and

storing information corresponding to the group of terminal operating characteristics in the communication terminal (col. 11, lines 15-45; a user can accept or reject the ringtone; if a user accepts, the tone is stored in memory).

Armanto does not discuss the other limitations of claim 1 such as:

displaying on the communication terminal a list of selectable items corresponding to the identified one or more profiles;

receiving a first user input associating a displayed selectable item corresponding to a first user profile with the received group of terminal operating characteristics;

receiving a second user input selecting the first user profile as the operational profile on the communication terminal; and

in response to the said second user input, configuring the communication terminal to operate according to the received group of terminal operating characteristics.

Instead Armanto states that the processor can "launch the application for programming ringing tone" (col. 11, lines 47-52). Armanto then describes starting an

Art Unit: 2628

editing program but also states that this is only if the mobile station has such an application (col. 11, lines 47-52). Given this disclosure, one skilled in the art would assume that the invention of Armanto would use other prior art ringing tone programming techniques if the specific program described by Armanto did not exist on the mobile phone.

One example of a prior art ringtone programming technique is disclosed by Finke-Anlauff. Finke-Anlauff discloses:

displaying on the communication terminal a list of selectable items corresponding to the identified one or more profiles (fig. 3 shows the different profiles a tone can be associated with; col. 5, line 53-col. 6, line 10; a user can associate various characteristics with various profiles based on user selection using the displayed selectable items);

receiving a first user input associating a displayed selectable item corresponding to a first user profile with the group of terminal operating characteristics (col. 5, line 53-col. 6, line 10; a user can associate various characteristics with various profiles based on user selection using the displayed selectable items);

receiving a second user input selecting the first user profile as the operational profile on the communication terminal (col. 4, lines 37-49; a user selects an operating mode, which reads on a user profile); and

in response to the said second user input, configuring the communication terminal to operate according to the received group of terminal operating characteristics

(col. 4, line 50-col. 5, line 2; the CPU is programmed to define the ringtone and other characteristics according to user selection of the operating mode).

The motivation for using profiles in this manner is to not burden the user with tedious adjustments every time a user changes environments (col. 1, lines 36-54). It would have been obvious to one skilled in the art to modify Armanto to use profiles with assigned ringtone characteristics in order to make operations simpler for a user as taught by Finke-Anlauff.

7. As to claim 2, both Armanto and Finke-Anlauff disclose a ringing tone as a received terminal operating characteristic as noted in the rejection to claim 1. Further, Finke-Anlauff discloses lights as a terminal operating characteristic (fig. 3), which reads on a graphical picture.

8. As to claims 6 and 7, neither Armanto nor Finke-Anlauff expressly discloses that the message is received from a remote server providing promotional content or event driven content. However, official notice has been taken of the fact that such uses for ringtones and other cellphone messages are well-known in the art (see MPEP 2144.03). For instance, a ringtone can be an ad jingle (promotional content) or a concert performance (event driven content) downloaded from a remote server in response to a request or text message. It would have been obvious to one skilled in the art to modify Armanto and Finke-Anlauff to use promotional content or event driven content from a remote server in order to serve the needs of both promoters and mobile phone users as is known in the art.

9. As to claim 8, Armanto discloses a method comprising providing a display on the communication terminal allowing the user to discard one of more of the terminal operating characteristics from a received message after inspecting the terminal operating characteristics included in the message (col. 11, lines 15-45; a user can accept or reject the ringtone; if a user accepts, the tone is stored in memory).

10. As to claim 11, Finke-Anlauff discloses a profile name label for the group of terminal operating characteristics (fig. 3).

11. As to claim 46, Armanto discloses a method comprising:

after receiving the message, providing a display on the communication terminal to notify a user of the receipt of the terminal operating characteristics;

and receiving at the communication terminal user input indicating that the received terminal operating characteristics are to be saved on the communication terminal (col. 11, lines 15-45; a user is notified via display and can accept or reject the ringtone; if a user accepts, the tone is stored in memory).

12. As to claim 47, see the rejection to claim 1.

13. As to claim 54, Finke-Anlauff discloses a plurality of user profiles stored on the apparatus (fig. 3), wherein only one of the user profiles can be selected at one time (col. 5, line 53-col. 6, line 10; note that “a particular grouping” is chosen, not multiple groupings).

14. As to claim 55, Finke-Anlauff discloses an apparatus wherein configuring the apparatus comprises creating a new user profiles in the memory of the apparatus (col. 5, line 53-col. 6, line 10; one or more new “personal” profiles is created).

15. As to claim 58, see the rejection to claim 1.
16. As to claim 59, see the rejection to claim 2.
17. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armanto in view of Finke-Anlauff and further in view of Smith (U.S. Patent 6,226,367).
18. As to claim 4, Armanto in view of Finke-Anlauff does not disclose a method wherein the group of terminal operating characteristics includes at least one of a card defining contact information and a calendar note defining a date of an event. Smith, however, does disclose such information being stored (col. 10, lines 47-52; an electronic business card, or EBC, with contact information is stored). The motivation for this is to allow a user to take full advantage of caller ID and contacts functions (col. 2, lines 24-39). It would have been obvious to one skilled in the art to modify Armanto in view of Finke-Anlauff to store an electronic business card in order to enhance caller ID and contacts functions as taught by Smith.
19. Claims 5, 9, 33, 34, 37-39, 48-53, 56, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Armanto in view of Finke-Anlauff and further in view of Park (U.S. Patent 7,158,805).
20. As to claim 5, Armanto in view of Finke-Anlauff does not disclose that a group of terminal operating characteristics includes bookmark information defining the location of a server document associated with a user-selectable profile. Park, however, discloses an update system with information such as a home page address (col. 9, see information item 10). It would have been obvious to one skilled in the art to modify Armanto in view of Finke-Anlauff to include a server document address as received

information as taught by Park as this is simply combining a new piece of information into the structure of Armanto in view of Finke-Anlauff. The invention of Armanto in view of Finke-Anlauff would still perform the same way, but would display and store a document address instead of a tone or visual. One skilled in the art would recognize this as keeping in the spirit of both Armanto's and Finke-Anlauff's inventions, while substituting one piece of data for another.

21. As to claim 9, Park discloses a method of creating an animation associated with a user-selectable profile with a plurality of individual pictures (col. 9, see information item 16 "moving picture"). See the rejection to claim 5 for the rationale of the Armanto in view of Finke-Anlauff in view of Park combination. It is submitted that the same rationale applies to this claim, as an animation is just another piece of identifying data to be received.

22. As to claim 33, see the rejection to claim 1. Further, neither Armanto nor Finke-Anlauff discloses updating the terminal operating characteristics of the one or more user-selectable profiles to correspond to the received group of terminal operating characteristics. Park, however, discloses updating of contact information (col. 3, line 47-col. 4, line 3; col. 4, lines 13-29; information such as office email address and phone number is stored), which can read on updating the operating characteristics (phone numbers to be dialed, etc.) of a profile. The motivation for updating automatically is to take away the burden on a user to update the information himself (col. 1, lines 41-49). It would have been obvious to one skilled in the art to modify Armanto in view of Finke-Anlauff to automatically update in order to reduce burden on a user as taught by Park.

23. As to claim 34, see the rejection to claim 2.
24. As to claim 37, see the rejection to claim 5.
25. As to claim 38, see the rejection to claim 6.
26. As to claim 39, see the rejection to claim 7.
27. As to claim 48, see the rejection to claim 46. Neither Armanto, Finke-Anlauff, discloses that profiles are to be updated, but Park does disclose this as stated in the rejection to claim 33.
28. As to claim 49, see the rejections to claims 1 and 33.
29. As to claim 50, see the rejection to claim 46.
30. As to claim 51, see the rejection to claim 47.
31. As to claim 52, see the rejection to claim 8.
32. As to claim 53, see the rejection to claim 2.
33. As to claim 56, see the rejection to claim 54.
34. As to claim 57, see the rejection to claim 55.
35. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armanto in view of Finke-Anlauff in view of Park and further in view of Tran (U.S. Publication 2022/0069220).
36. As to claim 10, none of Armanto, Finke-Anlauff, and Park discloses producing a screen saver from an animation upon selection of a user-selectable profile. Tran, however, discloses a mobile terminal (p. 5, section 0060) that downloads news clips and animates them as a news ticker to be used when the mobile terminal is inactive, thus acting as a screen saver (p. 17, section 0142). It would have been obvious to one

skilled in the art to modify Armanto, Finke-Anlauff, and Park to display a screen saver of received information as taught by Tran as this is simply combining pieces of data into an animation as is known in the art. The invention of Armanto, Finke-Anlauff, and Park would still perform the same way, but would use icons or pictures in succession to create a screen saver instead of just displaying lights. One skilled in the art would recognize this as keeping in the spirit of the Armanto and Finke-Anlauff inventions, while substituting one piece of data for another.

37. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armanto in view of Finke-Anlauff in view of Park as applied to claim 33 above, and further in view of Smith.

38. As to claim 36, see the rejection to claim 4.

Conclusion

39. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2628

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON M. RICHER whose telephone number is (571)272-7790. The examiner can normally be reached on weekdays from 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kee Tung can be reached on (571) 272-7794. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kee M Tung/
Supervisory Patent Examiner, Art Unit 2628

AMR
7/28/08